

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	No.
)	
v.)	Violations: Title 18, United States Code,
)	Sections 664 and 2; Title 42, United States
DAVID JACOBS)	Code, Section 6928(d)(2)(A)

COUNT ONE

The SPECIAL MARCH 2007 GRAND JURY charges:

1. At times material to this indictment:

a. Defendant DAVID JACOBS was the owner, operator, and President of Northwestern Plating Works, Inc. ("NPW"), which was located at 3114 South Kolin Avenue, Chicago, Illinois.

b. NPW was in the business of metal finishing. NPW used cyanides, acids, corrosives, brass, copper, zinc, and nickel in its electroplating processes. During the metal finishing process, NPW generated waste that had pH levels of either 12.5 or above (caustic) or 2 or below (acidic).

c. Certain of the waste generated during NPW's electroplating process was designated as a "hazardous waste" under the Resource Conservation and Recovery Act ("RCRA"), Title 42, United States Code, Sections 6901 through 6992k. Under RCRA regulations promulgated by the United States Environmental Protection Agency ("EPA"), generators of hazardous waste such as NPW were generally required to transport their hazardous waste to a hazardous waste treatment, storage or disposal facility ("TSD facility") within 90 days of generating the hazardous waste, otherwise the generator would have to itself meet RCRA's requirements for becoming a licensed TSD facility.

Pursuant to RCRA, the EPA authorized the Illinois Environmental Protection Agency (“IEPA”) to regulate facilities in Illinois that treated, stored, transported or disposed of hazardous wastes, through IEPA regulations (hereinafter, the “Illinois RCRA regulations”). Pursuant to RCRA, the Illinois RCRA regulations were enforceable under federal law. NPW was not a licensed TSD facility.

2. From in or about July 2005 through on or about April 4, 2006, at Chicago, in the Northern District of Illinois, Eastern Division,

DAVID JACOBS,

defendant herein, knowingly stored and disposed of RCRA hazardous wastes consisting of waste chemicals at the NPW facility, which facility did not have a treatment, storage or disposal permit for hazardous waste issued under RCRA;

In violation of Title 42, United States Code, Section 6928(d)(2)(A), and Title 18, United States Code, Section 2.

COUNT TWO

The SPECIAL MARCH 2007 GRAND JURY further charges:

1. At times material to this indictment:

a. Defendant DAVID JACOBS was the owner, operator, and President of Northwestern Plating Works, Inc. (“NPW”), which was located at 3114 South Kolin Avenue, Chicago, Illinois.

b. NPW had established and maintained for its employees an employee Profit Sharing Plan (“The Plan”), the purpose of which was to provide retirement income and a deferral of income for periods extending to the termination of covered employment or beyond.

c. As such, the Plan was an employee pension benefit plan, as defined in Title 29, United States Code, Section 1002(2), and subject to Title 1 of the Employee Retirement Income Security Act of 1974, as amended, Title 29, United States Code, Section 1001, et seq.

c. The Plan was funded by contributions from employees’ paychecks and by contributions from NPW. The Plan received additional funding from tax-deferred income from The Plan’s investments.

d. The Plan was administrated by defendant DAVID JACOBS, who was the sole member of the committee acting as the fiduciary for The Plan, as well as the sole trustee for The Plan. As a fiduciary, JACOBS owed a duty to The Plan’s beneficiaries to maintain the assets of The Plan in a fair and honest manner and to treat the beneficiaries with undivided loyalty, good faith, fairness, and honesty.

e. Defendant DAVID JACOBS, through NPW, maintained custody of The Plan’s funds at an account at Morgan Stanley, to which he had sole access.

2. From on or about September 27, 2001, to on or about March 11, 2005, at Chicago, in the Northern District of Illinois, and elsewhere,

DAVID JACOBS,

defendant herein, did embezzle and steal, and unlawfully and willfully abstract and convert to defendant's own use and to the use of another, the moneys, funds, credits, property, and other assets of The Plan, and of funds connected with The Plan, namely in excess of \$830,000 of funds from The Plan to which he was not entitled;

In violation of Title 18, United States Code, Section 664.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY